



PROPERTY LAW – CHALLENGES OF THE 21st CENTURY

Proceedings

International Scientific Conference
held on 9 October, 2020 in Belgrade, Serbia

Editors

Jelena Simić
Aleksa Radonjić

UNION UNIVERSITY SCHOOL OF LAW, BELGRADE

PRAVNI
fakultet
Univerzitet UNION



PROPERTY LAW – CHALLENGES OF THE 21st CENTURY
Proceedings
International Scientific Conference
held on 9 October, 2020 in Belgrade, Serbia

Publisher

Union University School of Law, Belgrade, Serbia

For the Publisher

Nebojša Šarkić, Professor of Law,
Union University School of Law, Belgrade, Serbia

Editors-in Chief

Jelena Simić, Associate Professor,
Union University School of Law, Belgrade, Serbia
Aleksa Radonjić, Assistant Professor,
Union University School of Law, Belgrade, Serbia

Reviewers

Bogoljub Milosavljević, Professor of Law,
Union University School of Law, Belgrade
Ana Vlahek, Associate Professor,
University of Ljubljana, Faculty of Law
Jelena Arsić, Associate Professor,
Union University School of Law, Belgrade

All rights reserved. No part of this book may be copied, photocopied, reproduced, translated or reduced to any electronic medium or machine-readable form, in whole or in part, without specific permission of the author and publisher.

www.pravnifakultet.rs

Union University School of Law, Belgrade

PROPERTY LAW – CHALLENGES
OF THE 21st CENTURY

Proceedings

International Scientific Conference
held on 9 October, 2020 in Belgrade, Serbia

Editors

Jelena Simić

Aleksa Radonjić

Belgrade, 2021

Organizing committee

Jelena Simić, Associate Professor,
Union University School of Law, Belgrade, Serbia

Aleksa Radonjić, Assistant Professor,
Union University School of Law, Belgrade, Serbia

Members of the International Scientific Committee of the Conference

Wian Erlank, Professor of Law, North-West University,
Law Faculty (South Africa)

Aleksandra Čavoški, Professor of Law, University of Birmingham,
Birmingham Law School (UK)

Rafael Ibarra Garza, Professor of Law,
Faculty of Law of the University of Monterrey (Mexico)

José Carlos de Medeiros Nóbrega, PhD, Research Associate,
University of Osnabrück (Germany)

Gabrijela Mihelcic, Associate Professor, University of Rijeka,
School of Law Rijeka (Croatia)

Meliha Powlakić, Professor of Law, University of Sarajevo,
Faculty of Law (Bosnia and Herzegovina)

Radenko Jotanović, Associate Professor, University of Banja Luka,
Faculty of Law (Bosnia and Herzegovina)

Irina Sferdian, Professor of Law, West University of Timisoara,
Faculty of Law (Romania)

Oliver M. Hübner, PhD, Frei Universität Berlin (Germany)

Miloš Živković, Professor of Law, University of Belgrade,
Faculty of Law (Serbia)

Dragoljub Popović, Professor of Law and retired Judge
of the European Court of Human Right (Serbia)

CONTENTS

Editor's Word.....	7
José Carlos de Medeiros Nóbrega, <i>The Challenge of a Common European Property Law</i>	9

I Panel: Property Law and Technology

Nasir Muftić, <i>Treating Personal Data as Property: A Solution for the Digital World?</i>	15
Darja Softić Kadenić, <i>Planning for a Digital Death</i>	33

II Panel: Constitutional Property Law Issues

Pavlo V. Pushkar, <i>The Influence of the European Convention of Human Rights on the Protection of Property in the Countries of Eastern Europe: Transformation of Notions of Property and Property Protection in the Russian Federation and Ukraine</i>	55
Ana Vilfan-Vospersnik, <i>ECHR Restitution Case-Law for Central and Eastern Europe</i>	71
Lerato Rudolph Ngwenyama, <i>Usufruct and Habitability: Perspectives from South Africa</i>	105

III Panel: Classical Issues in the 21st Century

Katarina Jovičić, Slobodan Vukadinović, <i>Differences of Property Transfer Systems in Europe – The Challenge of Substantive Unification of Contract Law in the 21st Century</i>	125
Meliha Powlakić, <i>The Traditional Principle superficies solo cedit and the Modern World – Property Relationships on Wind-parks, Solar Power Plants, Electric Energy Grid and Transmission lines etc.</i>	141

IV Panel: Post-Yugoslavian Challenges in Property Law

Dušanka Komnenić, Dragoljub Popović, <i>Property of Frozen Assets in Ex-Yugoslav Banks in the Case-Law of the European Court of Human Rights</i>	169
Duško Čelić, <i>Challenges of Regulating Immovable Property Rights in Kosovo and Metohija</i>	183
Jelena Belović, <i>(Non) Agreement on Sucession Issues of the Former SFRY</i> . . .	203
Strahinja D. Miljković, Igor Simić, <i>Legal Frameworks for Privatization of Socially-Owned and Publicly-Owned Enterprises in the Republic of Serbia in the Territory of the Autonomous Province of Kosovo and Metohija from 1999 to 2008</i>	219

V Panel: Expropriation

Jelena Jerinić, <i>Who Is the Judge of the Common Good? Possibilities for Judicial Review of Public Interest Establishment in Expropriation Cases – The Example of Serbia</i>	243
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

VI Panel: Environmental and Social Challenges

Maša Marochini Zrinski, <i>Principles in the Service of Conception and Protection of the Right to Live in a Healthy Environment – (In)Consistency of the European Court’s Case-Law</i>	263
Frederik Rudolph van Dyk, <i>South African Land Reform, Constitutional Environmental Imperatives, and a Comparative Overview</i>	289
Sameera Mahomed, <i>Investigating the Role of Participation in Upgrading Informal Settlements in South Africa: The Case of Melani and the Further Residents of Slovo Park Informal Settlement V. City of Johannesburg</i>	313
Savo D. Marković, <i>Communal Right in Montenegro. A Contribution to Ostrom’s Analysis of Governing the Commons</i>	331
Bojana Vasiljević Poljašević, <i>Tax and Legal Treatment of Intellectual Property from the Aspect of Republic of Srpska</i>	343

EDITOR'S WORD

Union University School of Law, in cooperation with Internationale Juristenvereinigung Osnabrück, organized and held an international scientific conference titled the Property Law Conference – Challenges of the 21st Century on October 9, 2021.

This conference was organized as one of the goals of the internal scientific project Property Law - Challenges of the 21st Century, which was realized by the Union University School of Law in Belgrade in 2020. The aim of this project was to look into the tendencies of changes in the field of property law at the beginning of the 21st century. Also, one of the goals was to pay tribute to the retired professor of the Union University School of Law, Prof. Dr. Dr. h.c Vladimir Vodinelić who through his scientific work made an exceptional contribution to the regulation of Property Law, in the first place dealing with the institute of *possessio* but also leading the working group that drafted the Law on Property and Other Property Rights of the Republic of Serbia.

Apart from distinguished scientists and researchers from Serbia, prominent scientists and researchers from different parts of the world, from South Africa, Ukraine, Bosnia and Herzegovina, Croatia, Slovenia, Montenegro and Switzerland, also made a great contribution to the realization of this project.

The Conference program was divided into six panels dedicated to various topics: Property Law and Technology; Constitutional Property Law Issues; Classical Issues in the 21st Century; Post-Yugoslavian Challenges in Property Law; Expropriation; Environmental and Social Challenges. The participants' presentation, as well as the lively discussion at the Conference, showed that in the field of property law many issues remain open and that socio-political circumstances may strongly influence, for better or worse, legal changes in the domain of property law.

We owe gratitude to all the authors who responded to our invitation and contributed to the exceptional quality of both the Conference and its Proceedings with their presentations and submitted papers.

With thanks to the Union University School of Law, without which this endeavor would not be possible, we remain hopeful that these Proceedings will benefit all those who work in the realm of property law as academics and practitioners just the same.

In Belgrade, June 1, 2021

Editors

Cover Design
Ivana Zoranović

Graphic Design
Irena Đaković

Preparation and Printing
Dosije studio, Belgrade

Circulation
100 copies

ISBN 978-86-7952-060-9

CIP – Каталогизација у публикацији
Народна библиотека Србије, Београд
347.22/.23(082)

INTERNATIONAL Scientific Conference Property Law-challenges
of the 21st Century (2020 ; Beograd)

Proceedings / International Scientific Conference Property law –
challenges of the 21st century, held on 9 October, 2020 in Belgrade, Serbia ;
editors Jelena Simić, Aleksa Radonjić. – Belgrade : Union University
School of Law, 2021 (Belgrade : Dosije studio). – 359 str. ; 24 cm

Tiraž 100. – Editor's Word: str. 7. – Str. 9–12: The Challenge of a
Common European Property Law / José Carlos de Medeiros Nóbrega. –
Napomene i bibliografske reference uz radove. – Bibliografija uz svaki rad.

ISBN 978-86-7952-060-9

а) Имовинско право – Зборници

COBISS.SR-ID 52676617



P
L
C



ISBN 978-86-7952-060-9

